

OCCUPANCY COMPLIANCE WORKSHOP

DHCD Soft Subsidies and LIP

(HOME HSF, HIF, CIPF, CATNHP,TOD,CBH, AHTF, LIP)

Massachusetts Department of Housing
and
Community Development -DHCD,

CEDAC
&



September and October, 2013

Workshop Objective

- Reinforce our compliance partnerships

- DHCD
- CEDAC
- MassHousing
- FinePoint Associates, LLC
- Property Developers
- Property Owners
- Property Managers
- Tenants

“Coming together is a beginning; keeping together is progress; working together is success.”
-Henry Ford

Workshop Objective(cont.)

- Clarify Regulations
- Highlight new (HOME) requirements that
 - Enhance accountability and performance
 - Achieve more timely production of housing
 - Improve monitoring and oversight
 - Share stories (amnesty)
- Coordinate all program Rules to achieve better compliance



Soft Subsidy Programs:

- HOME Investment Partnerships Program (HOME)
- Housing Innovation Fund (HIF)
- Housing Stabilization Fund (HSF)
- Capital Improvement and Preservation Fund (CIPF)
- Commercial Area Transit Node Housing Program (CATNHP) /Transit Oriented Development (TOD)
- Affordable Housing Trust Fund Program (AHTF)
- Community Based Housing (CBH)
- ALSO;
- DHCD's Local Initiative Program (LIP)



Local Initiative Program (LIP)

- State Program- Permitted through Chapter 40B zoning process
 - Units must meet the State Sanitary Building Code
 - Tenants must be properly documented to meet the income limit of below 70% or 80% AMI
 - Tenants must be selected through a marketing and lottery process acceptable to DHCD.



Helpful Websites

DHCD programs

- <http://www.mass.gov/hed/housing/affordable-rent>

Mass Housing Partnership; (MHP)

- http://www.mhp.net/uploads/resources/ma_subsidymatrix.pdf

MassHousing's website for the Affordable Housing Trust Fund (AHTF)

- https://www.masshousing.com/portal/server.pt/community/affordable_housing_trust_fund/208/trust_fund_home

OCCUPANCY RULES APPLICABLE TO ALL PROGRAMS



Rental Activities - types of deals

- Acquisition only
- New construction
- Acquisition and rehabilitation
- Rental units that are part of FTHB assistance & production



Homebuyer Activities - types of deals

- Project-based
 - Construction or rehab and sales to eligible buyers

Property Standards

- Rental - Acquisition Only:
 - State/Local Code (also must follow applicable state & federal Lead-Based Paint regulations)
 - Smoke detectors and CO detectors





Property Standards (cont.)

For both rental construction/rehabilitation & project-based FTHB:

Projects must follow DHCD design guidelines

- New construction:
 - Certificate of Occupancy
 - Applicable state and local code
 - Model Energy Code/Energy Star (new construction up to 3 stories-or as applicable to an eligible project; must be certified to Energy Star)
 - *NOTE: Some communities follow the Stretch Code!*



Property Standards (cont.)

- Rehabilitation
 - Applicable state and local code
 - Written rehab standards



Lead-Based Paint (24 CFR part 35)

- Project commitments after 9/15/2000
- Test disturbed surfaces
- \$5k- \$24,999 /unit in HUD \$ =Risk assessments & interim controls
- \$25k+/Unit in HUD \$= Abatement
- Lead must be addressed to meet the HUD federal regulations at 24 CFR Part 35 and the Massachusetts Lead Law whether or not children under six will reside at the property



Lead-Based Paint (cont.)

On April 22, 2008, the EPA issued a rule requiring the use of lead-safe practices and other actions aimed at preventing lead poisoning. Under the rule, beginning in April 2010, contractors performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and schools built before 1978 must be certified and must follow specific work practices to prevent lead contamination.

<http://www.hud.gov/offices/lead/training/rrp/rrp.cfm>



Lead Information Resources

- National Lead Information Center
 - Copies of the regulation
 - 1-800-424-LEAD
- Lead professionals, training providers and HUD-sponsored Lead Safe Work Practices training listings
 - www.leadlisting.org
 - 1-888-LEADLIST
- HUD - www.hud.gov/offices/lead
- MassHousing - www.masshousing.com ("Get the Lead Out")
- EPA - www.epa.gov/opptintr/lead



Lead Information Resources

- Other Federal Agencies with local resources
 - Centers for Disease Control and Prevention
 - Childhood Lead Poisoning Prevention grantees nationwide
 - Environmental Protection Agency
 - Local lead hazard awareness grantees
 - Regional staff
- Users are urged to obtain a copy of the regulation (1-800-424-LEAD) to ensure an understanding of the requirements.



Healthy Homes

- Intervention in 4 areas that can be expected to help children:
 - Excess Moisture
 - Dust
 - Ventilation and Control of Toxins
 - Education

Accessibility Requirements

- Multi-Family New Construction
 - 5% of units (not <1); Accessible to individuals with mobility impairments.
 - *Additional* 2% of units (not <1) accessible to individuals with sensory impairments
- Multi-Family Substantial Rehabilitation
 - Requirements trigger at 15 units and/or if cost of rehab is 75% or more of replacement cost
 - It's desirable to create accessibility even if Federal or State requirements don't trigger physical accessibility
- Be sure to know your project's requirements (eg: 504, ADA, MAAB, etc.)

Accessibility Requirements (cont.)

- Requirements do not end with initial rent-up
- All programs must be accessible (It's not only about the units!)



Affirmative Marketing/ Fair Housing (AFHMP)

Before any project marketing begins:

- Analyze the market and assess which groups are least likely to apply.
- Develop a strategy to reach those least likely to apply.
- Remember- this is a LIVING document/plan.
 - Review and modify over time
- For more information go to:
<http://www.mass.gov/hed/docs/dhcd/hd/fair/affirmativefairhousingp.pdf>
- <http://www.mass.gov/hed/docs/dhcd/hd/fair/afhmp.pdf>

AFHMP (cont.)

- Efforts to attract those who may not normally apply
 - Create and follow a written AFHM/TSMP.
 - Maintain a waitlist.
 - Language such as “Active Adult Community” *NOT ALLOWED* in advertising (could discourage applicants with mobility impairments).

AFHMP (cont.)

- Advertise in MassAccess for all units, including accessible units
 - www.Massaccesshousingregistry.org
- Use HUD Logos (EHO, etc.) in all advertising & rental materials.
- Metro Boston- Use Metro List for all unit and waitlist marketing. (Phone# 617-635-3321)
- Advertise locally, as well as other parts of the state and use essential materials in other languages.
- TTY/TDD Communication Services-Text Telephones (TTY), also known as Telecommunications Device for the Deaf (TDD), are used by the deaf, hard-of-hearing, and individuals with speech impairments to communicate.



AFHMP (cont.)

Lotteries:

Part of your Tenant/Buyer Selection Plan

- When, where, and how it will be conducted
- Who is eligible
- Use qualified Lottery Administrator to conduct the lottery

Lottery REQUIRED for initial rent-up of rental projects (as well as all FTHB Projects)



AFHMP (cont.)

If community wants to implement local preference:

- Demonstrate need for the local preference in AFHM plan
- Demonstrate no disparate impact on protected classes
- May not exceed more than 70% of affordable units
- Local residency preferences must not be advertised
- Must meet DHCD's lottery guidelines and be pre-approved by DHCD!

AFHMP (cont.)

- Limited English Proficiency (LEP)
 - On August 11, 2000, [Executive Order 13166](#), titled **"Improving Access to Services by Persons with Limited English Proficiency"**, was issued. Final guidance was issued effective February 21, 2007.



LEP

- Federal Executive Order 13166 requires that administrators of federal funding assess and address the needs of otherwise eligible persons seeking access to federally conducted programs and activities who, due to LEP cannot fully and equally participate in or benefit from those programs and activities.
 - www.lep.gov/ISpeakCards2004.pdf
 - <http://www.hud.gov/offices/fheo/promotingfh/lep.cfm>
- State also has LEP Regulations
 - https://www.masshousingrental.com/portal/server.pt/community/library/332/limited_english_proficiency



Methods for Oral Communication

- Share language services between sites
- Train bilingual staff to act as interpreters
- Telephone and video conferencing interpreter services
- Language line account thru AT&T: www.language.com
- Tapes and audio files
- Community volunteers (make formal agreements)



Written Translation

- Standardize documents to reduce translation needs
- Translate an entire document
- Translate a short description of the document
- Provide a statement in various languages that says “If you don’t understand this document we will provide you oral translation at no cost to you”
- Consider using a professional translator to proof/ensure accurate translation if bi-lingual staff is used to translate documents

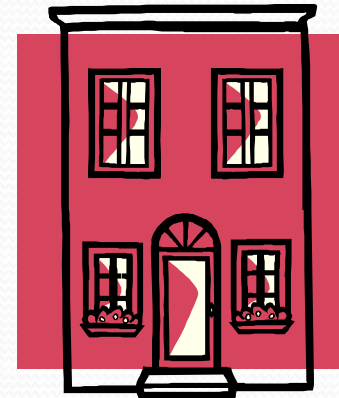
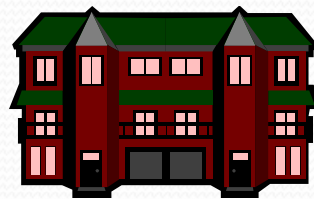


Documents to be Translated

Determine what documents and identify them in a Language Access Plan (LAP)

- Vital documents are those that are critical for ensuring meaningful access by applicants and households served, and LEP persons specifically.
 - Notices of free language assistance
 - Housing Applications
 - Written notices of rights, denial, loss or decreases in benefits or services (including recertification notices for rentals)
 - 30-Day Notices (Rental)
 - Pre- & Post-purchase training materials (FTHB)
 - Outreach/marketing materials

Determining Assisted Units- Rental

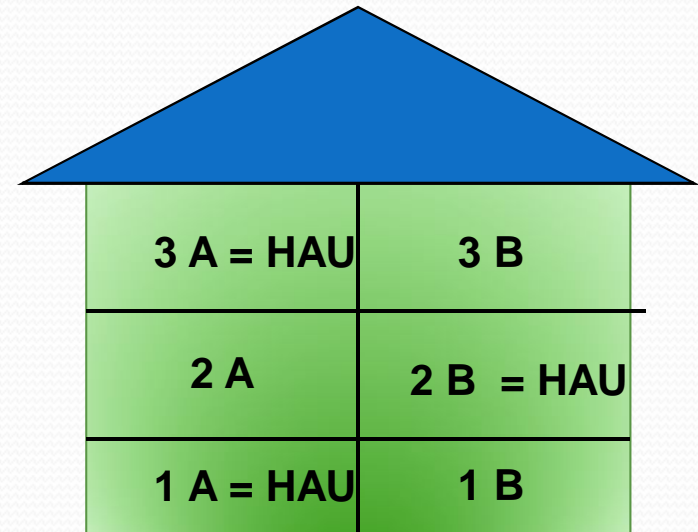


Determining Assisted Units- Rental

- Only units receiving DHCD/CEDAC \$ are subject to most requirements; however, the entire property is subject to the property standards.
- Number of Assisted units are specified at project commitment
 - For properties with HOME and non-HOME units, units will be “fixed” or “floating” HOME units and will be designated as such in your loan documents.
 - Also, distribution of assisted units by bedroom size is in the loan documents

Fixed & Floating Units-Rental

- Only HOME has “fixed” and “floating” designations
- All units in this building are 2 bedroom units. Loan docs indicate 3 are Assisted
- If “Fixed”: 1A, 2B, 3A always Assisted units
- If “Floating”: unit numbers change but always have 3 Assisted units





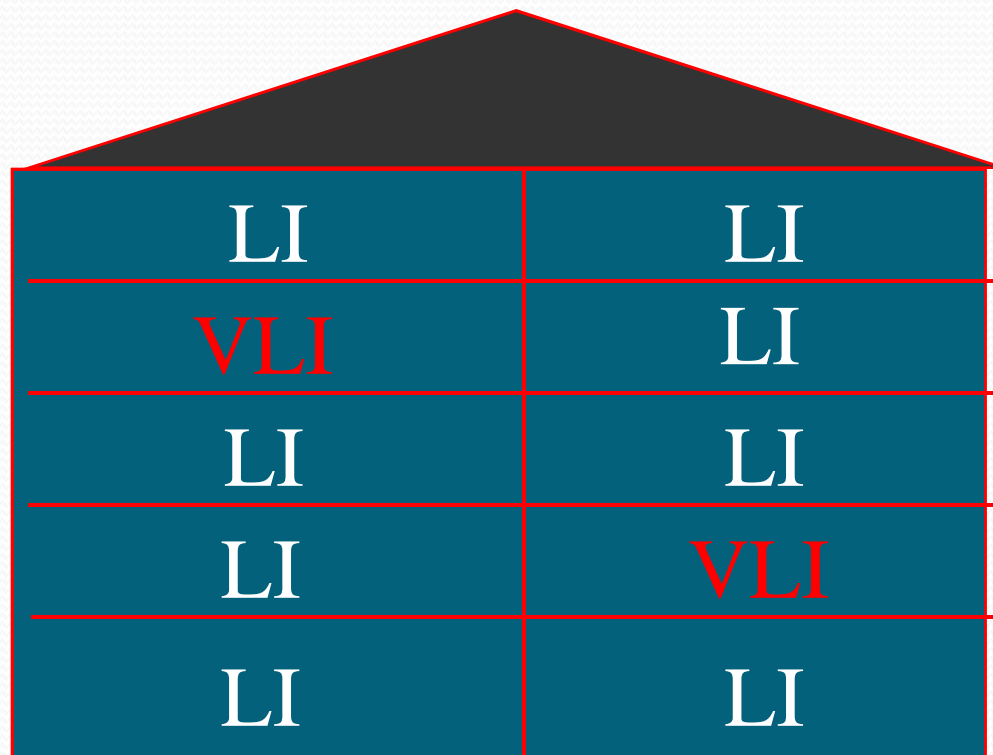
Occupancy Requirements

- HOME Only;
 - HOME rental units must achieve initial occupancy within 18 months of project completion
 - For units not leased within 6 months, DHCD must report to HUD on current marketing efforts and, if appropriate, submit an enhanced marketing plan
 - If a unit has no initial occupancy within 18 months, DHCD must repay HOME funds invested in that unit (per the new HOME Rule)

Income Targeting

- Always refer to the project's AHR
- BY FUNDING TYPE:
 - HOME Units:
 - All assisted units reserved for households @or< 60% AMI at move-in and at no more than @or< 80% AMI thereafter (LI), and;
 - If 5 or more assisted units: at least 20% of the HOME households must be @or< 50% AMI (VLI).

A HOME Rental Project...



LI	LI
VLI	LI
LI	LI
LI	VLI
LI	LI



Income Targeting (cont.)

- HSF units:
 - Reserved for HH @or< 80% AMI
 - HSF has *program wide ELI (@ or < 30 AMI)* requirement-check your project's AHR!
- HIF Units:
 - At least 50% of the units reserved for HH @or< 80% AMI
 - Of such units, 50% reserved for HH @or< 30% AMI

Income Targeting (cont.)

- CIPF Units:
 - At least 50% of the units reserved for HH @or< 80% AMI
 - A minimum of 5% of the units reserved for HH @or< 50% AMI
- CATNHP / TOD Units:
 - Not less than 50% of the units reserved for HH @or< 80%AMI

Income Targeting (cont.)

- CBH Units:
 - All units reserved for HH @ or < 80% AMI
(a majority of CBH tenants will have annual income based solely on SSI and will be below 15% AMI)
 - Persons with physical or mental impairments that limits one or more major life activity
 - Persons institutionalized or is a risk of institutionalization
 - 18 years of age or older or a household with a minor child who can qualify under criteria above.
 - Must be determined to be a Person Certified as Eligible (PCE) by the Mass Rehabilitation Commission on behalf of EOHHS. PCE's should have a certificate of eligibility in file.



Income Targeting (cont.)

- AHTF Units:
 - All units reserved for HH @ or < 110% AMI
 - Typically all AHTF units are reserved for HH @ or < 80% AMI
 - Check your project's AHR

Rent Limits

- **HOME** Rent limits

- At least 20 % of the HOME units must be designated as **VLI units**: "Low HOME Rents" - rent is "30% of income for HH at 50% AMI or FMR, whichever is lower"
 - Project-based rental assistance exception
- The remaining HOME units are designated as **LI units**: "High HOME Rents" - rent is "30% of income for HH at 65% AMI or FMR, whichever is lower"
- USE PUBLISHED HUD Rent Schedules for Rent Cap

Rent Limits

- **HOME** Rent limits (cont.)
 - Rents must be pre-approved by DHCD*
 - DHCD will ensure compliance with HOME rent limit
 - Will prohibit undue rent increases from previous years
 - Rule requires PJ (DHCD) to determine individual utility allowance for each rental project by:
 - Using HUD Utility Schedule Model, or
 - Determining utility allowance for a project based on the specific utilities used at the project
 - Utility allowances for each project must be updated annually

Rent Limits (cont)

- HSF Rent Limits:
 - Units at 80% AMI have max rents at 35% of 80% AMI or FMR whichever is lower
 - Units at 30% AMI have max rents at 35% of 30% AMI or FMR whichever is lower
 - HSF rents must be pre-approved by DHCD

Rent Limits (cont)

- HIF Rent Limits:
 - HIF I- no more than 30% of income
 - HIF II – no more than 35% of income
 - HIF III – same as HIF II
 - HIF IV- no more than 30% of 60% AMI for Low Income tenant; no more than 30% of 30% AMI for extremely low income
 - HIF V – same as HIF IV
 - HIF VI - no more than 35% of 80% AMI for Low Income tenant; no more than 35% of 30% AMI for extremely low income



Rent Limits (cont)

- CBH Rent Limits:
 - Rent paid by CBH shall not exceed 35% of their actual income.
- CIPF Rent Limits:
 - Units at 80% AMI have a rent max of 35% of 80% AMI or FMR whichever is lower
 - Units at 50% AMI have a rent max of 30% of 50% AMI or FMR whichever is lower
- CATNHP/TOD Rent Limits
 - Units at 80 % AMI have a rent max of 35% of 80% AMI or FMR whichever is lower

Rents for all Assisted Units

- All rents adjusted for tenant-paid utilities.
 - Use current local PHA utility allowance schedule*
- Rents adjusted annually by HUD (for HOME) and effective for only on the date specified by the HUD Program.
 - Link on the HUD HOME program homepage for HOME rents
 - MHP link for current to current rent limits (includes the 80%AMI and 30% AMI):
 - http://www.mhp.net/uploads/resources//2013_rent_limits.pdf

DHCD ListServe: To subscribe send a blank email to:

join-dhcd-housingdevelopment@listserv.state.ma.us

* This may change with the new HOME Rule

HOME Program “VLI” units and rental subsidies

- Only for project-based subsidies AND *if both* of the following conditions are true:
 - The household pays no more than 30% of adjusted income toward rent, and;
 - The unit is a VLI unit with the HH at/below 50% of AMI
- *Then* the gross rent is the rent allowable under the project-based subsidy program

These units must be identified as “Low HOME units”



HOME “VLI” units and rental subsidies (cont.)

- If the household’s income goes above 50% AMI, the unit is no longer a “VLI” unit. Therefore, the collected rent cannot exceed the High HOME rent limit and the subsidy portion may need to be reduced.



HOME “VLI” units and rental subsidies (cont.)

- Tenant-based rental subsidies:
- The maximum rent (total paid on unit) is no more than the “HOME rent”
 - If you are counting the household as part of your VLI-required units, the rent cannot exceed the Low HOME rent limit. However, if you are able to count the unit within your High HOME units, the property can collect up to the High HOME rent limit.

Other Assisted Units and Rental Subsidies

- HSF and all the other programs permit owners/managers to collect the full rent under the applicable payment standard for tenant-based voucher holders (unlike HOME)
- Look at the property's Affordable Housing Restriction (AHR) to see what parameters were defined at the time of the closing.
 - Property Managers- ask the owner of the property for a copy of the AHR- *you really need a copy on site!*

Initial Income Eligibility

- To determine eligibility for HOME, HUD allows use of 1 of 3 income definitions (PJ determines which one):
 - **24 CFR Part 5 (Section 8)** is DHCD's chosen definition for determining income and is also used for all other programs discussed here
- USE this definition for all the DHCD Soft Subsidy units


Application for Housing

- An application that covers all areas:
 - Size of unit requested
 - Size of household (ages, student status)
 - Race/Ethnicity ("for purposes of federal reporting")
 - Signed and dated by applicant
 - Household income from ALL sources
 - Any changes in income expected in next 12 months?
 - Assets of all kinds for all household members
 - Any lump sum?
 - Any dispossession of assets in last 2 years?
 - Remember to include all possible types of income/assets on application to avoid "surprises" (see hand-out)



“The Purple Book”

- Official Name: Technical Guide for Determining Income and Allowances for the HOME Program
 - <http://www.hud.gov/offices/cpd/affordablehousing/library/modelguides/2005/1780.pdf>
- This should be updated with the NEW FINAL HOME Rule



Income Documentation – Both Rental and FTHB:

- For an initial certification, a determination of income verification must be no more than 6 months old to be valid.
 - IMPORTANT: Refer to *Technical Guide* for what kind of documentation is required & how much...
 - REMEMBER, There may be rental restrictions on any assisted rental units that are part of a FTHB 2-4 family home.

Income Documentation

- Wages/Public Assistance/Pension/Child Support, etc.
 - 3rd Party Verification is first choice, but compare to sufficient paystub documentation to assess consistency. *Look forward!*
 - Source Doc (only if 3rd party is not available)
 - Steady (salaried) employment: THREE CONSECUTIVE MONTHS
 - Less Steady (seasonal, hourly workers): ENTIRE 12 MONTHS
 -new Final HOME Rule at 92.203- "examine at least 2 months of source documentation" ...
 - Affidavits to prove lack of income, such as "no income", "no child support", etc.
 - Must include language such as "under pains and penalties of perjury"

Income Documentation (cont.)

- Income from Assets
 - \$5,000 or less; verify amount of asset
 - And use actual income from the asset
 - Above \$5,000; verify amount of the asset
 - And use the *larger* of actual income from the assets or the imputed asset income (using area Passbook Rate which is currently 1%)
- Disposition of Assets for less than Fair Market Value
 - In essence, the household has voluntarily reduced its ability to afford housing. Therefore, an imputed rate must be calculated and added as income from assets.



Income Documentation (cont.)

- Students 18 and over
 - Verify **full-time** student status
 - Verify and document all income and assets
 - If documented as a student, and NOT Head of Household or spouse, then income capped at \$480/year
- Minors' earned income (under 18 yrs) is not counted
 - However, unearned income attributable to a minor, e.g., child support, TANF payments, income from bank accounts, and other benefits paid on behalf of a minor must be included



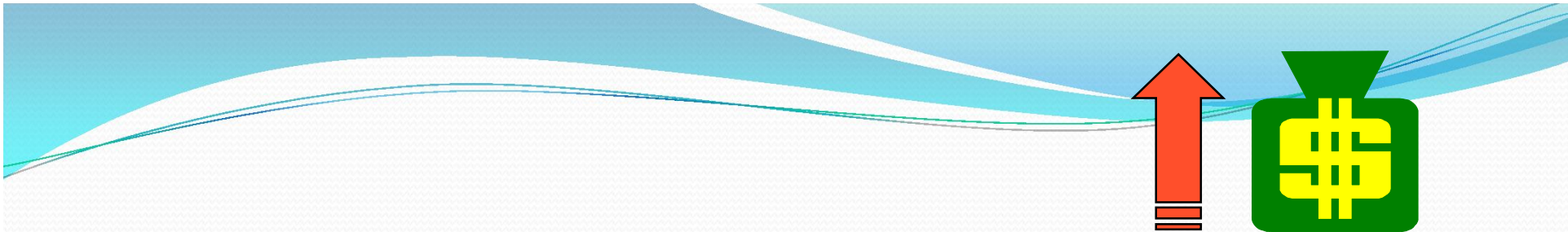
HUD HOME Income Calculator;

<http://www.hud.gov/offices/cpd/affordablehousing/training/web/calculator/calculator.cfm>

This is on HUD's Office of Community Planning and Development's "Affordable Housing" web page, under "training" along the right side of the page. Then click on: Web-based Training (HOME Front).

Annual Income Re-examinations (Rental)

- Annually, tenant income must be recertified (same process as initial certification)
 - Review 3rd party verification
 - Get written statement from another means-tested government program - If not available, then:
 - Source documentation (remember how many months of info required if pay stubs used)
- Income documentation becomes “stale” after 120 days.
 - Use effective date of recertification on recert form.

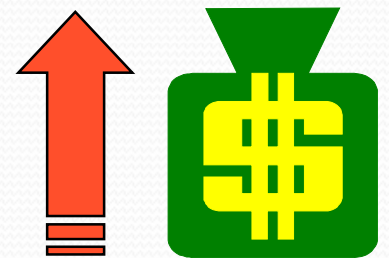


Increases in Tenant Income-(**Rental**)

- If the income of a tenant in Low HOME (VLI) unit increases up to 80% of AML:
 - May increase rent to High HOME rent level (when lease allows)
 - Must rent the next HOME-assisted unit (fixed projects) or next available unit (floating projects) at Low HOME rent. If the project's units float, you may allocate the Low HOME status to a VLI-eligible household, if there is one available

Increases in Tenant Income (cont.)

- If at recertification, the income of a tenant in a HOME unit exceeds 80% of AMI...





Increases in Tenant Income (cont.)

- Tenant may remain in assisted unit BUT
 - (for HOME fixed units): Tenant must pay rent equal to 30% of *adjusted* monthly income.
 - (for HOME floating units): Tenant must pay rent equal to 30% of *adjusted* monthly income up to the 'street' or market rent level and "next available" unit rule applies.
 - Units with HOME and LIHTC:
 - Rents must be raised and capped at the LIHTC Rent Limit
- (In all cases of combined funding sources; the most restrictive rent rules apply.)

Rent and Occupancy Requirements

- Must be enforced for the term of the affordability period through:
 - Affordable Housing Restriction (AHR)
 - Deed Restriction
- Rental and resale restrictions may only be terminated upon foreclosure. (NOT a preferred option!) With resale to an eligible purchaser, the new buyer will assume a deed rider and its restrictions.
- Any resale or refi must have prior consent from DHCD /CEDAC, (or risk a slow down of the process.)



Lease Terms

- Leases must be for at least 1 year, unless agreed upon by owner and tenant (DHCD requires 1 year lease; in rare cases, a waiver is allowed)
- Owner may terminate tenancy with 30 days notice under certain conditions but may not terminate with less than 30 days notice
- Owners **MUST** adopt written tenant selection policies and criteria



Sustainability

- Review of financial condition of rental projects.
 - Annual project financial audits –in electronic form
 - DHCD/CEDAC as loss payee on property insurance
 - Current variance report- how are things going *now*?
 - Annual Cash Flow report covering last two full years
 - Replacement Reserve Account balance?
 - Contributions?
 - Operating Reserve Account balance
 - Disbursements from reserves over the last 12 months

Cash Flow Requirements; HIF and CBH

HIF I; Gross cash receipts over 115% due and payable

HIF II-VI; Gross cash receipts over 105% due and payable

CBH-Gross cash receipts over 105% due and payable

(note that HOME/HSF/CIPF/CATNHP might also have cash flow provisions depending on what was initially negotiated with DHCD. Staff should check the promissory note(s) and loan agreements for these provisions)



Supportive Services

- HIF and CBH most often have supportive services components
 - HIF; varies by project
 - CBH; tenants need to be determined to be a Person Certified as Eligible (PCE) by the Mass Rehab Commission, on behalf of EOHHS.
 - PCE's should have a certificate of eligibility from MRC in the file
- Supportive Service Program –integral part of many of the projects; check your written agreements.
 - (this will be monitored during your monitoring visit with FinePoint)



Overlapping with LIHTC (Rental) Rules

- Occupancy Requirements
 - Refer to your project's Regulatory Agreement and to your project's AHR!
 - Compare the applicable program restrictions and follow the most restrictive for your project.
- Rents may not exceed either program limit



Overlapping with LIHTC Rules (cont.)

- Establishing tenant income eligibility
 - Documentation: same for both
 - Definitions: same for both- Part 5 / Section 8 ("Section 8 " in LIHTC regs)
 - Asset Income: Use HOME verification requirements.
- Reexaminations of income
 - Must be completed annually

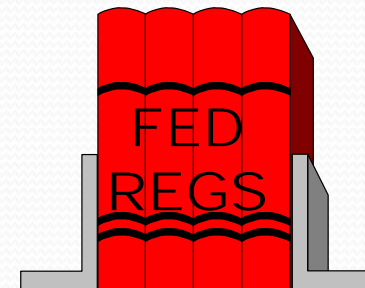


Overlapping with LIHTC Rules (cont.)

- Over-Income Tenants
 - HOME defers to LIHTC; rent cannot exceed limits set by LIHTC until unit is replaced.
- HUD WEBSITE FOR COMBINING THE HOME and LIHTC:
 - <http://www.hud.gov/offices/cpd/affordablehousing/training/web/lihtc/complying/together.cfm>

Other Federal Requirements

- Davis-Bacon labor standards
 - 12 or more HAU's require federal prevailing wage rates (Davis Bacon). Sufficient documentation must be maintained in the project files.



Other Federal Requirements (cont.)

- Relocation:
 - (Yes, even for FTHB)- Obtain waiver from seller that they are selling of their own free will.-HUD Handbook 1378- Appendix 32
 - 49 CFR Part 24 (the “Uniform Relocation Act”) requirement that you ensure that acquisition of any property with Federal funds will not contribute to any “displaced” persons, as defined by the Act, thereby triggering relocation assistance
 - All the Right Moves (HUD website) for help in the Uniform Relocation Act (“Barney Frank Rule”)
 - If project-based, must follow URA and pay benefits if building is to be demolished or if tenants (commercial or residential) have to be relocated as a result of your action



Other Federal Requirements (cont.)

- Conflict of Interest (for HOME at 24CFR Part 92.356) also applies to HSF/CIPF/CATNHP/TOD
 - No one associated with project may obtain financial interest in contract or subcontract
 - Persons include themselves, or those with whom they have business or family ties during their tenure or for one year thereafter
 - Includes employee, agent, consultant, officer, or elected official or appointed official of the organization receiving the funds



Other Federal Requirements (cont.)

- Conflict of Interest (cont.)
 - **EXCEPTION:** On behalf of a HOME awardee, DHCD will review an exception request and determine if the request needs to be forwarded to HUD (if HOME funds). Exceptions are reviewed on a case-by-case basis and granted when it has been determined that the exception will serve to further the purposes of the program and the effective and efficient administration of the project or program.



Other Federal Requirements (cont.)

Conflict of Interest (cont.)

- In order for a real (or perceived) conflict of interest situation to be considered for an exception, a two-part threshold must be met:
 - 1) The nature of the conflict must be publicly disclosed, and;
 - 2) An opinion of legal counsel that the proposed action does not violate local law must be obtained and submitted.

Other Federal Requirements (cont.)

Conflict of Interest (cont.)

To petition for an exception, documentation must be provided, which shall include:

- 1) the precise wording of the disclosure;
- 2) precisely how the Col was disclosed (e.g. by letter to the chair, oral announcements, etc.); and,
- 3) description of evidence that the interested public was aware of, or could be expected to be aware of, the disclosure.

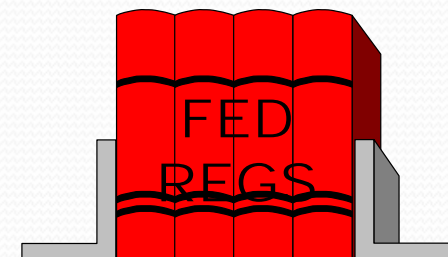
Other Federal Requirements (cont.)

Conflict of Interest (cont.)

In those cases where a benefit is sought, particular attention should be paid to whether all other persons eligible to receive the same benefit, **who are not in a conflict position** and are in of a **similar need** situation, have a reasonable chance to receive the benefit. The degree that their opportunity to receive the benefit will be diminished if the exception is granted, the greater the diligence required if we are to grant the exception.

Other Federal Requirements (cont.)

- Minority and Woman-owned Business Enterprises (M/WBE)
 - HOME, HSF, CIPF, and CATNHP/TOD require M/WBE Plans
- Section 3 – local companies and local LI workers
 - HOME, HSF, CIPF, and CATNHP/TOD require Section 3 plans
 - Thresholds for Section 3 requirements
 - Projects for which HUD's share of project costs exceeds \$200,000; and
 - The contract or subcontract exceeds \$100,000.





Project Completion Report

- Required for HOME, HSF, CIPF, and CATNHP/TOD
- DHCD's version includes performance measurement data
- Properties must eventually report beneficiary data for units that may have been vacant on the date the initial project completion report was submitted.
- Web-Based Annual Occupancy Reporting to DHCD



Project Completion Report (cont.)

- Beneficiary data
 - Information on homebuyers and any program-assisted tenants
 - Some additional questions to meet
 - Objectives of HUD's Performance Measures initiative and
 - Commonwealth's data collection goals
 - Most areas can be covered in your application/intake form.

On-going reporting

- The Federal and State governments continue to be interested in on-going data on subsidy beneficiaries
 - Agencies' abilities to report play a crucial role in the allocation of funding
 - Post-purchase counseling provides opportunities to get meaningful data on how your project is going
- (FTHB) Principal Residency Requirement
 - FTHB on-going reporting mainly consists of confirming ongoing primary residency, but may include other measures (particularly for homeowners with assisted rental units)

DHCD Monitoring and Inspections (for Rentals; including Homebuyer units with rentals)

- We must verify compliance with requirements each year
- On-site property inspections are required:
 - Every 3 years for proj. with 1-4 units
 - Every 2 years for proj. with 5-25 units
 - Each year for proj. with 26 or more units
- -NEW- PM's annual unit inspections should be documented in unit files



Monitoring- FTHB

- Homeownership compliance
 - One time only (unless rental units present), but there are continued development occupancy responsibilities
- Ongoing compliance for multi-family homes with homeowner and rental units
 - Site visits when inspections required
 - Desk audits for projects in compliance in lieu of visit for years when inspections are not required
 - Provide updated rent/income schedules to FTHBs with HOME-assisted rental units



Monitoring- Rental

- Site visits when inspections are required
- Desk audits for projects in compliance in lieu of visit for years when inspections are not required



Monitor Scheduling the Visit

- Monitoring agent will contact you at least two weeks in advance of visit
- An “open book” test; we want you to pass
 - You’ll get a copy of the monitoring guides.
 - You’ll have time to check your files.
 - You are welcome to call with questions.

Monitoring Visit

- Visit typically completed in ½ day to 1 day/site
 1. Interview and documentation review for financial and insurance issues, fair housing, etc.
 2. Unit file review (random sample of 20% of HAU files or at least 4 files)
 3. On-site inspections (random sample of 20% of HAUs or at least 4 units and at least 1 unit per building. Common areas and building systems are also inspected.)



MORE (NEW) DETAILS REQUIRED FOR MONITORING:

- Unit numbers of ADA units; sensory and mobility
- Unit numbers of Project Based Assisted units (PBA's)
- Specific information about Supportive Services
 - Information on contractual agreement
 - Provider
 - How many staff (FTE)
 - How is it funded



MORE (NEW) DETAILS REQUIRED FOR MONITORING (cont.)

- Financial management (in addition to what has been required in the past):
 - Annual Cash Flow for past two years
 - Completed Cash Flow Template (will be provided)
 - List of disbursements (and the costs of them) made from OR and RR in past 12 months
- Complete Affordability Matrix –by unit/by income level/fund – to measure compliance with requirements described in loan documents.



MORE (NEW) DETAILS REQUIRED FOR MONITORING (cont.)

- Inspections:
 - Owner (PM on owner's behalf) will need to *certify* annually that units are suitable for occupancy
 - Required Inspections:
 - At completion, and within 12 months of completion and at least every 3 years there after
 - Projects found to have health/safety issue: DHCD will adopt a more frequent inspection schedule for problem properties

Findings & Recommendations

- Monitoring letter issued by DHCD:
 - Findings:
 - Addresses statutory/regulatory violations
 - Must cure/respond in 45 days
 - Recommendations:
 - Address good practices
 - No response required, but expect to see improvement next time



First -Time Homebuyer

- The next few slides relate to subjects that are unique to first-time homebuyer programs and projects.
- Applies to all HOME, HSF, CIPF, and CATNHP/TOD funded homeownership units

The Applicant- FTHB

- An individual or an individual and his/her spouse who have not owned a home during the 3-year period prior to the HOME/HSF home purchase, except that the following *cannot* be excluded from consideration:
 - Any individual who is a displaced homemaker (as defined by HUD)
 - Any individual who is a single parent (as defined by HUD)
 - An individual who owns or owned, as a principal residence during the 3-year period before the purchase of a home under the Program a dwelling unit whose structure is :
 - (i) not permanently affixed to a permanent foundation or
 - (ii) not in compliance with State, local or model building codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure.

The Applicant –FTHB (cont.)

- Low-income (80% AMI by family size as determined by HUD)
- Income eligibility determined
 - At purchase for existing housing
 - At contract (P&S) signature for new construction
- Income eligibility determination may be no more than 6 months old
- Property will be principal residence
- Sponsor or agency does initial income determination; DHCD to approve all FHTB project-based applicants.
- Does not have eligible assets in excess of \$75,000 for project-based or \$25,000 for purchaser based

Pre-Closing Steps- **FTHB**

- Forward proposed buyer info to DHCD
 - Income/Asset information, including the household application, back-up documentation, and the sponsor's income summary calculation worksheet.
 - Financing commitment—All loans must be conforming. The commitment must be fixed for the term of the loan and should reflect competitive industry standard rates, including acceptable ratios.
 - Loan products must be reviewed with respect to points and other closing costs; points are not permitted.
 - Homebuyer Counseling Certificate: Given after pre-purchase counseling, with a post-purchase counseling certificate to follow within four months of purchase.

Pre-Closing Steps **FTHB** (cont.)

- Forward proposed buyer info to DHCD
 - Disclosure Statement
 - Purchase and Sale Agreement
 - Certificate of Occupancy
 - Deed Rider for a particular household—completed page 1 to confirm HOME/HSF investment and assistance amounts
 - HUD-1 Settlement Statement
 - HOME/HSF Project Completion Form

Pre-Closing Steps **FTHB** (cont.)

- Homebuyer Counseling
 - Pre Purchase- Homebuyer Counseling Certificate
 - Post-Purchase Counseling and Foreclosure Prevention
 - Ideas on what is working
 - Telephone and mail contact
 - Classes with incentives?
 - Tuition?
 - Establish and keep RELATIONSHIP with buyers
- New buyers might be buying at a time where housing prices are falling. They need to understand that, and what it may mean to them.



Review of First Mortgage Product (FTHB)

- Agencies must take strict approach to reviewing the first mortgage
 - Conform to GSE guidelines (i.e. Fannie Mae/Freddie Mac, FHLB)
 - Fixed rate; reasonable and competitive, without points
 - Underwritten with ratios within the industry standard
 - Maximum 95% loan to purchase price for HSF
 - Must be at a competitive interest rate and without points

Maximum Property Value

- The housing must be modest housing:
- If acquisition only (purchaser-based (HOME ADDI) program):
 - **Sales price** cannot exceed 95% of the median area purchase price. Although the Economic Stimulus Act of 2008, effective March 6, 2008, allows HUD to temporarily increase FHA loan limits, **they are not applicable to HOME**
 - Property appraisal required



Maximum Property Value (cont.)

- If acquisition and new construction, (FTHB project-based):
 - Per the HOME Rule: sales price cannot exceed 95% of the median area purchase price.

But with DHCD-assisted projects...

- Sales price cannot exceed DHCD's sales price limits,
- Affordability must be demonstrated with an affordability analysis where specific condo fees, tax rates, etc. are taken into account

Maximum Property Value (cont.)

- If acquisition with rehab:
 - Per the HOME Rule: as-completed value cannot exceed 95% of the median area purchase price. Although the Economic Stimulus Act of 2008, effective March 6, 2008, allows HUD to temporarily increase FHA loan limits, they are not applicable to HOME

And, with DHCD-assisted projects...

- Sales price cannot exceed DHCD's sales price limits

Resales

- Deed Riders contain instructions and formulas pertinent to re-sales
- In nearly all cases, our first goal is to find an eligible purchaser and provide the housing opportunity for another low-income first-time homebuyer household
- Recapture provisions may apply, depending on the restriction.

Capital Improvements

- Documentation of all capital improvements in order to be considered for inclusion in Maximum Resale Price formula
- Must have legitimate receipts of products used and work performed
- Proposed capital improvements are approved at DHCD's discretion, and follow a depreciation schedule.

Refinancing: project-based

- Must get consent from DHCD
- Up to 90% of resale formula, exclusive of capital improvements
- Rate must be
 - Fixed
 - Competitive
 - Comparable or better than current rate
- Conforming Loan – mortgage loans that conform to GSE guidelines (Fannie Mae/Freddie Mac, FHLB)
- Supported by Appraisal by licensed MA appraiser



Web Resources:

HUD's "Home Page" for HOME:

<http://www.hud.gov/offices/cpd/affordablehousing/programs/home/>

DHCD e-SOURCE

To subscribe send a blank email to:

join-dhcd-housingdevelopment@listserv.state.ma.us

HOME Monitoring

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